



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

October 16, 2009

Judge William B. Moran  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20005

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OCT 16 2009  
REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

Re: In Re John A. Biewer Company of Ohio, Inc., No. RCRA-05-2008-0007  
In Re John A. Biewer Company of Toledo, Inc., No. RCRA-05-2008-0006

Dear Judge Moran:

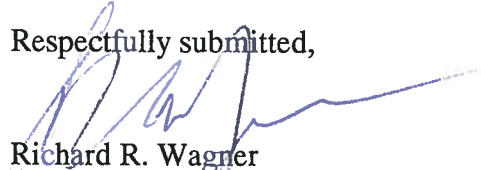
In your Order on Cross Motions for Accelerated Decision on Derivative Liability, at 37, issued on October 5, 2009, in In Re John A. Biewer Company of Ohio, Inc., you stated that you were of the opinion that there were no material differences in the circumstances presented in that case from the circumstances presented in In Re John A. Biewer Company of Toledo, Inc., No. RCRA-05-2008-0007, which would warrant a different ruling on accelerated decision motions made in the Toledo case, than that made on similar motions filed in the Ohio case resolved by your order of October 5, 2009. You invited comment from the parties within two weeks from the date of the issuance of the order.

Complainant is of the opinion that, though there are some factual differences between the two cases, given the statements made in the October 5, 2009, order, no factual difference is likely to produce an outcome in your ruling on the pending Motion for Accelerated Decision on Derivative Liability, filed in the Toledo case, different than the outcome you arrived at in the Ohio case.

Complainant would note that, in addition to the Motion for Accelerated Decision on Derivative Liability pending in the Toledo case, there are two pending motions in each case: (1) Motion for

Accelerated Decision on Liability and Penalty, and (2) Motion to Strike, in Part, Respondent's Pre-Hearing Exchange, both timely filed on December 12, 2008, pursuant to order.

Respectfully submitted,



Richard R. Wagner

Senior Attorney and Counsel for the  
Administrator's Delegated Complainant

cc: Region 5 Hearing Clerk (E-13J)

Douglas A. Donnell  
Mika Meyers Beckett & Jones, PLC  
900 Monroe Avenue, NW  
Grand Rapids, MI 49503-1423

In Re John A. Biewer Company of Ohio, Inc.  
No. RCRA-05-2008-0007

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**CERTIFICATE OF SERVICE**

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

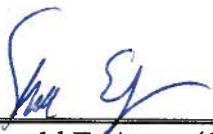
I hereby certify that today I filed the original and one copy of an **October 16, 2009, letter to Judge William B. Moran** in the office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604-3590, with this Certificate of Service.

I further certify that I then caused true and correct copies of the filed documents to be mailed to the following:

Honorable William B. Moran  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20005

Douglas A. Donnell  
Mika Meyers Beckett & Jones, PLC  
900 Monroe Avenue, NW  
Grand Rapids, MI 49503-1423

October 16, 2009

  
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